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**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 2012-183

KEITH EDWIN AUSTIN

DEFAULT DECISION AND ORDER

**1615 Graham Road
Cabot, AR 72023**

[Gov. Code, §11520]

Registered Nurse License No. 595788

Respondent.

FINDINGS OF FACT

1. On or about November 29, 2011, Complainant Louise R. Bailey, M.Ed., R.N., in her official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs, filed Accusation No. 2012-183 against Keith Edwin Austin (Respondent) before the Board of Registered Nursing. (Accusation attached as Exhibit A.)

2. On or about March 7, 2002, the Board of Registered Nursing (Board) issued Registered Nurse License No. 595788 to Respondent. The Registered Nurse License expired on December 31, 2007, and has not been renewed.

3. On or about November 29, 2011, Respondent was served by Certified and First Class Mail copies of the Accusation No. 2012-183, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant to California Code of

1 Regulations, title 16, section 1409.1, is required to be reported and maintained with the Board,
2 which was and is: 1615 Graham Road, Cabot, AR 72023.

3 4. Service of the Accusation was effective as a matter of law under the provisions of
4 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
5 124.

6 5. The certified mail copy of the Accusation was returned to the Board on October 25,
7 2011 marked "unclaimed" by the U.S. Postal Service.

8 6. Government Code section 11506 states, in pertinent part:

9 (c) The respondent shall be entitled to a hearing on the merits if the respondent
10 files a notice of defense, and the notice shall be deemed a specific denial of all parts
11 of the accusation not expressly admitted. Failure to file a notice of defense shall
12 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
13 may nevertheless grant a hearing.

14 7. California Government Code section 11520 states, in pertinent part:

15 (a) If the respondent either fails to file a notice of defense or to appear at the
16 hearing, the agency may take action based upon the respondent's express admissions
17 or upon other evidence and affidavits may be used as evidence without any notice to
18 respondent.

19 8. Respondent failed to file a Notice of Defense within 15 days after service upon him
20 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
21 2012-183.

22 9. Pursuant to its authority under Government Code section 11520, the Board finds
23 Respondent is in default. The Board will take action without further hearing and, based on the
24 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
25 taking official notice of all the investigatory reports, exhibits and statements contained therein on
26 file at the Board's offices regarding the allegations contained in Accusation No. 2012-183, finds
27 that the charges and allegations in Accusation No. 2012-183, are separately and severally, found
28 to be true and correct by clear and convincing evidence.

10. Taking official notice of its own internal records, pursuant to Business and
Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
and Enforcement is \$357.50 as of November 4, 2011.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Keith Edwin Austin has subjected his Registered Nurse License No. 595788 to discipline.

2. The agency has jurisdiction to adjudicate this case by default.

3. The Board of Registered Nursing is authorized to revoke Respondent's Registered Nurse License based upon the following violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Evidence Packet in this case:

a. Business and Professions Code section 2761(a)(4) for out-of-state disciplinary action taken by the Louisiana State Board of Nursing in 2007 for a guilty plea to possession of cocaine in 2007 and erratic and unprofessional behavior at a nursing position in 2006.

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ORDER

IT IS SO ORDERED that Registered Nurse License No. 595788, heretofore issued to Respondent Keith Edwin Austin, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on August 3, 2012.

It is so ORDERED July 3, 2012



FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

51017538.DOC
DOJ Matter ID:LA2011601277

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
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7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. *2012-183*

11 **KEITH EDWIN AUSTIN**

A C C U S A T I O N

12 **1615 Graham Road**
13 **Cabot, AR 72023**

14 **Registered Nurse License No. 595788**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., R.N. ("Complainant") brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing ("Board"),
21 Department of Consumer Affairs.

22 2. On or about March 7, 2002, the Board issued Registered Nurse License Number
23 595788 to Keith Edwin Austin ("Respondent"). The Registered Nurse License expired on
24 December 31, 2007, and has not been renewed.

25 **JURISDICTION AND STATUTORY PROVISIONS**

26 3. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent
27 part, that the Board may discipline any licensee, including a licensee holding a temporary or an
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1 inactive license, for any reason provided in Article 3 (commencing with Code section 2750) of
2 the Nursing Practice Act.

3 4. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
4 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
5 licensee or to render a decision imposing discipline on the license. Under Code section 2811,
6 subdivision (b), the Board may renew an expired license at any time within eight years after the
7 expiration.

8 5. Section 118 subdivision (b) of the Code grants the Board jurisdiction over suspended,
9 expired, forfeited, cancelled, or surrendered licenses:

10 "The suspension, expiration, or forfeiture by operation of law of a license issued by a board
11 in the department, or its suspension, forfeiture, or cancellation by order of the board or by order
12 of a court of law, or its surrender without the written consent of the board, shall not, during any
13 period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its
14 authority to institute or continue a disciplinary proceeding against the licensee upon any ground
15 provided by law or to enter an order suspending or revoking the license or otherwise taking
16 disciplinary action against the licensee on any such ground."

17 6. Section 2761 of the Code provides, in pertinent part:

18 "The board may take disciplinary action against a certified or licensed
19 nurse or deny an application for a certificate or license for any of the following:

20 (a) Unprofessional conduct, which includes, but is not limited to, the
21 following:

22 (4) Denial of licensure, revocation, suspension, restriction, or any other
23 disciplinary action against a health care professional license or certificate by another
24 state or territory of the United States, by any other government agency, or by another
25 California health care professional licensing board. A certified copy of the decision
or judgment shall be conclusive evidence of that action."

25 **COST RECOVERY**

26 7. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
27 administrative law judge to direct a licensee found to have committed a violation or violations of
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1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Disciplinary Action by the Louisiana Board of Nursing)**

5 8. Respondent is subject to discipline pursuant to Section 2761, subdivision (a)(4) of the
6 Code on the grounds of unprofessional conduct because he was disciplined by the Louisiana State
7 Board of Nursing ("Louisiana Board") as follows:

8 9. On or about March 14, 2007, the Louisiana Board entered findings of fact,
9 conclusions of law, and an order in the disciplinary action entitled *In the Matter of: Keith Edwin*
10 *Austin*. In a consent agreement resolving the disciplinary action, the Louisiana Board found, and
11 Respondent admitted, the following:

12 a. On or about July 5 through July 8, 2006, Respondent engaged in unprofessional
13 conduct by engaging in inappropriate and erratic behavior while working through
14 a nursing staffing agency at LSU Health Sciences Center in Shreveport,
15 Louisiana. This behavior included showing up to work with an unkempt
16 appearance, incoherent speech, giving medication to a patient with his bare hands
17 (an improper and unsafe practice), and failing to report to work without providing
18 notice of his absence.

19 b. On or about December 9, 2006, Respondent was arrested for possession of
20 cocaine and drug paraphernalia. On or about March 1, 2007, Respondent pled
21 guilty to those charges. Respondent subsequently sought treatment for substance
22 abuse problems.

23 10. In its March 14, 2007 decision, the Louisiana Board concluded Respondent had
24 committed unprofessional conduct, and ordered his license summarily suspended. It allowed him
25 to apply for reinstatement only if he paid a fine and the Board's costs, agreed to participate in the
26 state's "Recovering Nurse Program," and if he refrained from criminal misconduct or violating
27 any health care laws.
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11. Under Section 2761 subdivision (a)(4) of the Code the Louisiana Board's disciplinary action summarily suspending Respondent's Louisiana license in March 2007 is ground for the California Board to take disciplinary action.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1.1. Revoking or suspending Registered Nurse License Number 595788, issued to Keith Edwin Austin;

1.2. Ordering Keith Edwin Austin to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code Section 125.3; and,

1.3. Taking such other and further action as deemed necessary and proper.

DATED:

September 29, 2011

Louise R. Bailey
LOUISE R. BAILEY, M.Ed., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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